

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Western District of New York

County

KEVIN BARBER No.: 22-B-0033

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

County of Erie

Erie County Sheriff's Department

Former Erie County Sheriff Timothy

Howard, CO Schein, CO JOHN DOE

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No. 21 CV-960

(to be filled in by the Clerk's Office)

JURY TRIAL: Yes XX No 

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Kevin Barber</u>		
All other names by which you have been known:	<u></u>		
ID Number	<u>22-B-0033</u>		
Current Institution	<u>Groveland Correctional Facility</u>		
Address	<u>7000 Sonyea Rd., P.O. Box 50</u>		
	<u>Sonyea</u>	<u>New York</u>	<u>14556-0050</u>
	<i>City</i>	<i>State</i>	<i>Zip Code</i>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	<u>County of Erie</u>		
Job or Title (<i>if known</i>)	<u>County Government</u>		
Shield Number	<u></u>		
Employer	<u></u>		
Address	<u></u>		
	<u></u>	<u></u>	<u></u>
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 2

Name	<u>Erie County Sheriff's Department</u>		
Job or Title (<i>if known</i>)	<u>Sheriff of Erie County</u>		
Shield Number	<u></u>		
Employer	<u>John C. Garcia, Sheriff (Present)</u>		
Address	<u>10 Delaware Ave.</u>		
	<u>Buffalo</u>	<u>New York</u>	<u>14202</u>
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

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Defendant No. 3

Name Timothy Howard, Former Sheriff
 Job or Title (if known) Former Sheriff of Erie County
 Shield Number _____
 Employer County of Erie
 Address 10 Delaware Ave.
Buffalo New York 14202
City State Zip Code
☒ Individual capacity ☐ Official capacity

Defendant No. 4

Name Correctional Officer Schein
 Job or Title (if known) Erie County Correctional Facility
 Shield Number _____
 Employer County of Erie
 Address 11581 Walden Ave.
Alden New York _____
City State Zip Code
☒ Individual capacity ☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?**C.** Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Defendant(s) continued from page 3

Defendant No. 5

Correctional Officer John Doe
Erie County Correctional Facility
County of Erie
11581 Walden Ave.
Alden, New York 14004

Defendant is sued in his X Individual and X Official Capacity

END OF DEFENDANTS

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

- D.** Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

SEE attached page annexed after this page.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A.** If the events giving rise to your claim arose outside an institution, describe where and when they arose.

On June 25, 2021, my privacy rights were violated by ECSD
Employee John Doe.

- B.** If the events giving rise to your claim arose in an institution, describe where and when they arose.

Erie County Correctional Facility, May 17, 2021.

This section will describe how the following defendants violated Plaintiff's Rights of Due Process, and Cruel and Unusual punishment. Furthermore, the plaintiff's privacy rights, and equal protection under the Color of Law:

Color of Law: The appearance or semblance, without the substance, of a legal right. Implies a misuse of power made possible by the wrongdoer is clothed with the authority of the State.

Defendant No. 1 - County of Erie

The Erie County Sheriff's Department is employed by County government, and the County being Erie, in the State of New York. The County is held liable for damages due to its employees that afflicted the harm to petitioner as follows:

Defendant No. 2 - Erie County Sheriff (former) Timothy B. Howard.

Public officials are generally entitled to qualified liability from immunity in civil damages under § 1983 for good faith performance of their official duties. Coleman v. McHenry, E.D.Va. 1990, 735 F.Supp. 190.

However, under Supervisor Liability, the Erie County Sheriff's Department has an obligation to train their deputies and Correctional Staff, in accordance with the Erie County Sheriff's Department's "Rules of Conduct", under the Erie County Sheriff's Department's "General Orders".

Sheriff T. Howard, should be known by improperly training his correctional staff in regards to plaintiff's claims, that is/was the hearing officer that should be determined, due to plaintiff not having anything to do with the alleged incident that occurred on May 17, 2021 at the Erie County Correctional Facility

in Alden, New York.

It was Sheriff Howards job, as Supervisor of not only the Erie County Sheriff's Department, though the Erie County Sheriff's Correctional Facility in Alden, New York, to make certin his deputies/correctional staff that [he] employs does there job in the right mannor, without inflicting harm on innocent inmates, as was done to plaintiff herein.

Defendant No.: 3- Correction Officer Schein

Is the Sgt. responsible for the misbehavior report, and First claim herein, (See pg. 4 C).

Defendant John Doe as Defendant No. 4

John Doe, may be part of the Erie County Sheriff's Dept., upon information and belief, John Doe is responsible for the **SECOND CLAIM (See Annexed Under Claim No. 2)**

End of part (D).

Continued Attached page, Section "D"**1st Claim**

On May 17, 2021, at 5:30 p.m., a riot took place at the Erie County Correctional Facility, Delta Unit. Erie County Correctional Administration and the Sheriff's Dept., has maliciously and intentionally violated my rights to due process of law. As well as inflicted, cruel and unusual punishment for mental health issues, disregarding the commission of corrections rules and standards by arbitrarily placing me on administration segregation knowing the side effects of (23) twenty-three hour lock-downs and (1) one hour recreation and also finding me and everyone on Delta Unit guilty for the actions of people / inmates who they knew was in fact responsible for this riot according to Sheriff reports / investigations, "still" found me "guilty" at a disciplinary hearing without "equal" protection and/or due process of law.

The report for the misbehavior report was vague conduct and generally stated no specific conduct the I, Kevin Barber, did in the ticket written by Sgt. Schein, in that I was not seen doing no violative conduct to warrant a report, as no evidence whatsoever is against me, nor was there any given or placed in same report according to the Erie County Sheriff's Dept., / Detectives investigation and police reports. Also on June 7th, 2021, at approx. 1:00 p.m. at the Erie County Correctional Facility following said riot, I was found guilty of all charges by the facility administration, in violation of rules without proof and no recording of the hearing as well; (See 7 NYCRR 253.1

Section 253.1. Establishment of the disciplinary hearing officer

(a) There shall be at each correctional facility one or more hearing officers of the rank of lieutenant or above who shall function as a disciplinary hearing officer, the number to be dependent upon the needs of the facility. The superintendent may, in his discretion, designate some other employee to conduct disciplinary hearings.

(b) The disciplinary hearing officer shall be responsible for conducting disciplinary hearings in an impartial manner. No person who has participated in any investigation of the acts shall be a hearing officer at a hearing relating to those acts, nor shall any person who has prepared or caused to be prepared the misbehavior report on which a hearing is held, act as the hearing officer on that charge.)

noting to support the allegations of myself, committing any misconduct whatsoever, which violates my due process / equal protection. I was sentenced to 90 days in the special housing unit (shu) (Bravo-unit), on Administrative Seg., loss of video visits (due to covid-19 video visitation only), without any evidence of this writer being of violent behavior whatsoever, receive (23) twenty-three hour lockdowns, \$525.00 surcharge fee as well. Funds were lost of my account as well. This is cruel and unusual punishment, because I was no threat. This also renders, clearly, abuse of power and duress on my

CONTINUED FROM SECTION 4C, Claim 1

mind, body and soul. I am (60) sixty years old, and on my mental health, Timothy B. Howard (Sheriff), and his administration, at the Erie County Correctional Facility has placed me and others in a mental hostile enviroment that constantly sets my mental health issues, which is anxiety, depression, p.t.s.d., and mood disorder etc.

This administration hasn't proven how I am a danger to this facility. It was stated by the hearing officer / Sgt., "just by being in Delta or housed there, my boss say's your guilty and I can't help you", was the reply by said sgt.

After that, I Kevin Barber appealed on June 7, 2021 by Chief administration supt. to further note, I Kevin Barber was peaceful and locked in another room during said incident, see (investigation report - 21-024921 in which will prove this on merit, as that, I was not in the same report and I am innocent of all charges. These are violations under the United States Constitution and moreover, for due process, equal protection, and crule and unusual punishment not limited to, and because of the above-actions, the above-defendants are liable of supru liability because of they're failures to enforce the correct proceedures.

END OF CLAIM NO.: 1

SECOND CLAIM

Continued from section "D"...

On June 25, 2021, I Kevin Barber did have my rights to privacy violated, in that, personal information of mine, which included my name, and family's address, see Exhibit A, second page, fifth box; given to the New York State Parole Division, by the Erie County Sheriff's Department.

This unknown body is Defendant No. 5, "John Doe". However, this is an investigative report from the incident, that did not name me anywhere in said Police Report, except for my information. This information, was simultaneously given to all alleged "suspects" in same report, that half were on Parole, and other had various crimes, and most violent.

I, Kevin Barber, was not only, not on parole, however, I was not charged with any alleged conduct in this investigation, by the Erie County Sheriff's Department, though spent 90 days in the Admin Seg. Unit, annexed as Exhibit B.

Erie County Sheriff's Department, and John Doe both collectively gave my private information out to (37) other inmates at the Erie County Correctional Facility, on May 17, 2021. These actions occurred without my authorized consent.

The address where I was confined was 11581 Walden Ave., Alden New York. Therefore, there was no reason to give these inmates my personal information, without redaction.

This put my family and myself at harms risk. This was a complete disregard of my rights both on a State and Federal level.

END OF SECOND CLAIM.

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C. What date and approximate time did the events giving rise to your claim(s) occur?

On May 17, 2021 at 5:30P.M., and on June 25, 2021.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Claim one; On May 17, 2021 my Due Process Rights were
violated, as well as I was subjected to Crule and unusual
punishment, by placement of Administrative Seg for 90 days
under 23 hour lockdowns, and disregarding my Mental Health
status without proof nor evidence, nor charges of conduct
done by this plaintiff.

V. **Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Punitive damages, emotional distress and pain and sufferin
mental distress, deterioration of mental health, loss of
sleep due to severe anxiety attacks, raised level of
depression which resulted in an increase of my medications

VI. **Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I would like the court to order civil monetary damages in
the amount of 3.5 million dollars, punitive damages,
nominal damages \$5,000.00; compsetory damages \$100,000.00;
for my loss of video visits, 90 days of mental deteriation
and reimberssed \$525.00 for the wrongful surcharge I was
made to pay for an action I had nothing to do with.

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VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Erie County Correctional Facility, Erie County Sheriff

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

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- D.** Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E.** If you did file a grievance:

1. Where did you file the grievance?

Attempted to file with the Erie County Correctional Facility, however, they stated it was a non-grievable issue.

2. What did you claim in your grievance?

That my Disciplinary was wrongful, as well as the segregation confinement as well. That there was no basis to my confinement.

3. What was the result, if any?

The Correctional Facility stated it was a non-grievable issue.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I appealed the Administrative/Disciplinary hearing, as stated in Exhibit B, page 3.

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I filed an appeal to the hearing.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I appealed the disciplinary report to the chief

Administrator
(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

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IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: November 13, 2022.

Signature of Plaintiff

Printed Name of Plaintiff

Kevin Barber

Prison Identification #

22B0033

Prison Address

7000 Sonyea Rd., P.O. Box 50

Sonyea

City

New York

State

14556

Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

This civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS Kevin Barber

(b) County of Residence of First Listed Plaintiff Erle
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS Timothy B. Howard
Thomas Dina, Tina Stanford
Alfonzo Harris, Kenneth Wells
Melissa Himmelsbach
County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | |
|---|---------------------------------------|---------------------------------------|---|---------------------------------------|
| | PTF | DEF | | PTF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Description

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUT	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced Corrupt Organization <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1682) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Act <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Management <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Agency Decision <input type="checkbox"/> 950 Constitutionality State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input checked="" type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct Filing

VI. CAUSE OF ACTION (see attached) Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. 1331, 42 U.S.C. 1983

Brief description of cause: false arrest, Due process, cruel and unusual punishment, Disclosure of pr

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 5 million

CHECK YES only if demanded in complaint JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Reimer/Sinatra

DOCKET NUMBER 20 CV 461

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

EXHIBIT

A




Erie County Sheriff's Office
POLICE REPORT
INFORMATION: INVESTIGATION

Complaint
21-034921


Report Date & Time
 05/17/2021 19:21

Address of Occurrence 11581 WALDEN AV		District	Tract	Occ. Date & Time 05/17/2021 17:30	Day of Week Monday	Type of Premise Jail/Prison
Status Cleared By Arrest	Follow Up By	Supl N	TT Mess#	TT Entry Date	TT Cancel#	TT Cancel Date
Officers: D59 - PARISI D65 - FERRICK		D40 - HANNA 313 - MILBRANDT		Rep. Off.: 313 - MILBRANDT Supervisor: CAPT8 - WELCH		Assigned. Off.:
Last Name STROUD		First Name RAZEL	MI C	Ext	Birth Date 07/08/1999	Race Black
Address 91 NORTH HAMPTON ST		City BUFFALO	State NY	Zip 14220	Sex M	Age 21
Height 6' 0"	Weight 180	Hair BLK	Eyes BRO	Build M	Complexion DRK	Glasses None
Scars/Marks/Tattoos TAT BIRD NECK		Home Phone Work Phone				
Last Name MORRIS		First Name ANDRE	MI	Ext	Birth Date 02/05/1978	Race Black
Address 99 GERALD PL		City BUFFALO	State NY	Zip	Sex M	Age 43
Height 6' 7"	Weight 170	Hair BLK	Eyes BRO	Build S	Complexion DRK	Glasses None
Scars/Marks/Tattoos TAT JELISE RT ARM		Home Phone Work Phone				
Last Name FIELD		First Name NATHAN	MI	Ext	Birth Date 08/30/1988	Race White
Address 82 MARKUS DR		City CHEEKTOWAGA	State NY	Zip 14225	Sex M	Age 32
Height 6' 00"	Weight 180	Hair BRO	Eyes HAZ	Build M	Complexion FAR	Glasses None
Scars/Marks/Tattoos TABITHA LT ARM		Home Phone (716) 544-8608 Work Phone (716) 472-0754 Cell Phone				
Last Name GETMAN		First Name TYLER	MI	Ext	Birth Date 12/16/1988	Race White
Address 5416 SOUTH PARK AV		City HAMBURG	State NY	Zip 14075	Sex M	Age 32
Height 6' 04"	Weight 170	Hair BLN	Eyes HAZ	Build M	Complexion LGT	Glasses None
Scars/Marks/Tattoos TAT SUN RT LEG		Home Phone (716) 432-8573 Work Phone Cell Phone				
Last Name KENNER		First Name JAMES	MI	Ext	Birth Date 11/08/1981	Race Black
Address 81 CLAUDETTE CT		City CHEEKTOWAGA	State NY	Zip 142250000	Sex M	Age 39
Height 5' 07"	Weight 200	Hair BLK	Eyes BRO	Build M	Complexion DRK	Glasses None
Scars/Marks/Tattoos SCORPION NECK		Home Phone Work Phone Cell Phone				
Last Name MISZKO		First Name DAVID	MI	Ext	Birth Date 09/20/1977	Race White
Address 18 PULANSKI AV		City BUFFALO	State NY	Zip 14206	Sex M	Age 43
Height 6' 00"	Weight 180	Hair BLN	Eyes BLU	Build M	Complexion LGT	Glasses None
Scars/Marks/Tattoos SKULL RT ARM		Home Phone (716) 598-2525 Work Phone Cell Phone				
Last Name SMITH		First Name DAVID	MI	Ext	Birth Date 09/22/1990	Race Black
Address 41 EAST END		City CHEEKTOWAGA	State NY	Zip 14215	Sex M	Age 30
Height 5' 6"	Weight 240	Hair BRO	Eyes H	Build DRK	Complexion DRK	Glasses None
Scars/Marks/Tattoos		Home Phone Work Phone Cell Phone				
Victim DID receive information on Victim's Rights and Services pursuant to New York State Law Yes/No						
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Complaint		21-034921		Report Date & Time	
<div style="text-align: center;">  <p>Erle County Sheriff's Office POLICE REPORT INFORMATION: INVESTIGATION</p> </div>					
<div style="text-align: right;"> <p>Printed Date: 06/22/2021 07:46 AM</p> <p>Page: 2</p> </div>					
<p>Victim DID receive information on Victim's Rights and Services pursuant to New York State Law</p> <p>Yes/No</p>					
<p>413 7TH ST BUFFALO NY 14222</p> <p>Home Phone Work Phone Cell Phone</p>					
<p>CRUZ JOSEAN MI Ext 10/13/1982 Black M 38 Sex Age N Juvenile Arrested Report PR</p>					
<p>208 OXFORD BUFFALO NY 14201 Home Phone Work Phone Cell Phone</p>					
<p>SAUNDERS SHAWN MI Ext 11/21/1987 Black M 33 Sex Age N Juvenile Arrested Report PR</p>					
<p>62 CARL ST BUFFALO NY 14215 Home Phone Work Phone Cell Phone</p>					
<p>SMITH WILLIAM MI Ext 10/24/1980 Black M 60 Sex Age N Juvenile Arrested Report PR</p>					
<p>49 WILMUTH AV LACKAWANNA NY 14210 Home Phone Work Phone Cell Phone</p>					
<p>BARBER KEVIN MI Ext 03/03/1981 Black M 60 Sex Age N Juvenile Arrested Report PR</p>					
<p>128 OLYMPIC AV BUFFALO NY 14215 Home Phone Work Phone Cell Phone</p>					
<p>LOWMACK TIAWAN MI Ext 07/06/1981 Black M 39 Sex Age N Juvenile Arrested Report PR</p>					
<p>94 POUTNEY AV BUFFALO NY 14215 Home Phone Work Phone Cell Phone</p>					
<p>WILSON DEANDRE MI Ext 04/23/1971 Black M 60 Sex Age N Juvenile Arrested Report PR</p>					
<p>103 GOETHE ST Apt. UPPER BUFFALO NY 14208 Home Phone Work Phone Cell Phone</p>					
<p>BILLINGSLEY COLIN MI Ext 04/07/1981 Black M 40 Sex Age N Juvenile Arrested Report PR</p>					
<p>1278 KENNINGTON BUFFALO NY 14215 Home Phone Work Phone Cell Phone</p>					
<p>GARNER BRANDON MI Ext 01/02/1989 Black M 32 Sex Age N Juvenile Arrested Report PR</p>					


Erie County Sheriff's Office POLICE REPORT INFORMATION: INVESTIGATION														Complaint 21-034921 Report Date & Time 05/17/2021 19:21	
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report					
ALLEN	EDMUND			10/17/1994	Black	M	26	N	N	PR					
Address		City		State	Zip	Home Phone		Work Phone							
144 GERMAIN ST		BUFFALO		NY	14207	(716) 444-1290									
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone						
6' 8"	240	BLK	BRO	H	DRK	None	TAT GOOD-DIE YOUNG NECK								
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report					
DARGAN	JAMES			10/19/1988	Black	M	32	N	N	PR					
Address		City		State	Zip	Home Phone		Work Phone							
308 FLORIDA ST		BUFFALO		NY											
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone						
6' 11"	180	BLK	BRO	M	DRK	None									
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report					
JACOBY	AARON	M		01/13/2001	White	M	20	N	Y	PR					
Address		City		State	Zip	Home Phone		Work Phone							
29 TARKINGTON CT		TONAWANDA TOWN		NY		(716) 640-6321									
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone						
5' 10"	180	BRO	HAZ	M	LGT	None	TAT STAR RT ARM								
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report					
CLEVELAND	DARNELL	R		09/09/1998	Black	M	24	N	Y	PR					
Address		City		State	Zip	Home Phone		Work Phone							
2249 DELAWARE AV Apt: C2		BUFFALO		NY	14216	(716) 423-4834									
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone						
6' 11"	180	BLK	BRO	M	DRK	None	TAT LT ARM								
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report					
BARNWELL	RICHARD			08/19/1992	Black	M	28	N	N	PR					
Address		City		State	Zip	Home Phone		Work Phone							
163 DEERFIELD ST		BUFFALO		NY	14217										
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone						
6' 6"	167	BLK	BRO	M	DRK	None	TAT VANCE LT HAND								
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report					
BLAKENSHIP	IRAMICK	O		08/23/1977	White	M	43	N	N	PR					
Address		City		State	Zip	Home Phone		Work Phone							
6140 TRANSIT RD		DEPEW		NY	14043										
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone						
6' 1"	185	BLN	BLU	M	FAR	None	TAT DRAGON RT SHOULDER								
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report					
ROSA	CARLOS	J		12/19/1996	White	M	24	N	N	PR					
Address		City		State	Zip	Home Phone		Work Phone							
377 DOAT ST Apt: 2		BUFFALO		NY											
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone						
5' 8"	140	BLK	BRO	S	LGT	None	TAT PAOLA								
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report					
CLAYMOND	TYUS	E		12/30/1984	Black	M	36	N	N	PR					
Address		City		State	Zip	Home Phone		Work Phone							
696 WEST AV		BUFFALO		NY	14221										
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone						
6' 9"	260	BLK	BRO	M	DRK	None									
Victim DID receive information on Victim's Rights and Services pursuant to New York State Law											Yes/No				
Printed Date: 06/22/2021 07:46 AM															

		Erie County Sheriff's Office POLICE REPORT INFORMATION: INVESTIGATION										Complaint 21-034921										
Date of Birth												Report Date & Time 05/17/2021 19:21										
Last Name	NELSON		First Name	FRANK		MI	Ext	Birth Date	07/26/1982		Race	Black	Sex	M	Age	38	Juvenile	N	Arrested	N	Report	PR
Address	97 DURHAM AV										City	BUFFALO	State	NY	Zip	14215	Home Phone		Work Phone			
Height	5' 9"	Weight	223	Hair	BLK	Eyes	BRO	Build	M	Complexion	DRK	Glasses	None	Scars/Marks/Tattoos	TAT UPPER BACK							
Cell Phone	(716) 322-8393																					
Last Name	JACKSON		First Name	EDWARD		MI	Ext	Birth Date	10/08/1980		Race	Black	Sex	M	Age	40	Juvenile	N	Arrested	N	Report	PR
Address	283 DAVEY ST										City	BUFFALO	State	NY	Zip	14208	Home Phone		Work Phone			
Height	5' 5"	Weight	150	Hair	BLD	Eyes	BRO	Build	M	Complexion	DRK	Glasses	None	Scars/Marks/Tattoos								
Cell Phone																						
Last Name	PARKS		First Name	JUNNY		MI	Ext	Birth Date	02/20/1980		Race	Black	Sex	M	Age	41	Juvenile	N	Arrested	N	Report	PR
Address	11581 WALDEN AV										City	ALDEN	State	NY	Zip	14004	Home Phone		Work Phone			
Height	6' 00"	Weight	145	Hair	BLK	Eyes	BRO	Build	M	Complexion	DRK	Glasses	Unknown	Scars/Marks/Tattoos								
Cell Phone																						
Last Name	COTTON		First Name	DEVON		MI	Ext	Birth Date	01/09/1983		Race	Black	Sex	M	Age	38	Juvenile	N	Arrested	N	Report	PR
Address	461 CONNECTICUT ST Apt: UPPER										City	BUFFALO	State	NY	Zip	14213	Home Phone		Work Phone			
Height	5' 10"	Weight	180	Hair	BLK	Eyes	BRO	Build	M	Complexion	MBR	Glasses		Scars/Marks/Tattoos	TAT DIRTY MONEY RT ARM							
Cell Phone																						
Last Name	GRAZES		First Name	BRANDON		MI	Ext	Birth Date	01/12/1994		Race	Black	Sex	M	Age	27	Juvenile	N	Arrested	N	Report	PR
Address	345 LANGFORD AV Apt: B										City	BUFFALO	State	NY	Zip	14215	Home Phone		Work Phone			
Height	6' 1"	Weight	190	Hair	BLK	Eyes	BRO	Build	M	Complexion	MED	Glasses	None	Scars/Marks/Tattoos	TAT DIAMOND NECK							
Cell Phone																						
Last Name	LEGGETT		First Name	KEITH		MI	Ext	Birth Date	08/11/1986		Race	Black	Sex	M	Age	34	Juvenile	N	Arrested	N	Report	PR
Address	389 LAFAYETTE AV Apt: REAR										City	BUFFALO	State	NY	Zip	14213	Home Phone		Work Phone			
Height	5' 9"	Weight	220	Hair	BRO	Eyes	BRO	Build	M	Complexion	DRK	Glasses	None	Scars/Marks/Tattoos	TAT POPS RT ARM							
Cell Phone	(716) 886-4597																					
Last Name	BIASELLI		First Name	RANDY		MI	Ext	Birth Date	11/30/1981		Race	White	Sex	M	Age	39	Juvenile	N	Arrested	N	Report	PR
Address	13589 BLOOMINGDALE RD Apt: 3										City	AKRON	State	NY	Zip		Home Phone		Work Phone			
Height	6' 02"	Weight	170	Hair	BLK	Eyes	BRO	Build	M	Complexion	MED	Glasses	None	Scars/Marks/Tattoos	TATS ARM&CHEST							
Cell Phone	(716) 542-8858																					
Last Name	LUPER		First Name	EMMANUEL		MI	Ext	Birth Date	03/20/1988		Race	Black	Sex	M	Age	33	Juvenile	N	Arrested	N	Report	PR
Address	49 WOODLAWN CT										City	BUFFALO	State	NY	Zip	14209	Home Phone		Work Phone			
Height	5' 8"	Weight	130	Hair	BLK	Eyes	BRO	Build	S	Complexion	DRK	Glasses	None	Scars/Marks/Tattoos								
Cell Phone	(716) 678-0018																					

Victim DID receive information on Victim's Rights and Services pursuant to New York State Law Yes/No

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		Erie County Sheriff's Office POLICE REPORT INFORMATION: INVESTIGATION				Complaint 21-034921 Report Date & Time 05/17/2021 19:21				
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report
MARCHESE	RUBEN			07/28/1984	White	M	66	N	Y	PR
Address		City		State	Zip	Home Phone		Work Phone		
90 PERSON ST		BUFFALO		NY	14212	(718) 258-4243				
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone	
6' 00"	200	BLK	BRO	L	LGT	None	TAT: FORGIVE ME MOTHER			
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report
LAWRENCE	TERRION			08/15/1988	Black	M	32	N	N	PR
Address		City		State	Zip	Home Phone		Work Phone		
531 HERTEL AV		BUFFALO		NY	14207	(718) 602-0553				
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone	
6' 07"	164	BLK	BRO	M	DRK	None	TAT: TEAR DROP FACE			
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report
BRAXTON	DAVID			05/04/1993	Black	M	28	N	N	PR
Address		City		State	Zip	Home Phone		Work Phone		
2024 FILMORE AV Apt: C		BUFFALO		NY	14202					
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone	
6' 1"	186	BLK	BRO	M	DRK	None				
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report
WASHBURG	STEPHAN			07/09/1980	White	M	40	N	N	PR
Address		City		State	Zip	Home Phone		Work Phone		
288 HOYT ST		BUFFALO		NY	14213					
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone	
6' 6"	180	BRO	HAZ	M	LGT	None	TAT: EMILY LT ARM			
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report
REID	BOBBY			08/29/1999	Black	M	21	N	N	PR
Address		City		State	Zip	Home Phone		Work Phone		
52 WARWICK AV		BUFFALO		NY	14215					
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone	
6' 9"	180	BLK	BRO	M	DRK	None				
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report
PALISTRANT	STEVEN			09/12/1989	White	M	31	N	N	PR
Address		City		State	Zip	Home Phone		Work Phone		
2 THOMAS ST Apt: UPPER		BUFFALO		NY	14204	(718) 563-2464				
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone	
6' 05"	161	BRO	BRO	S	LGT	None				
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report
GRAY	SHAWN		J	04/22/1980	Black	M	41	N	N	PR
Address		City		State	Zip	Home Phone		Work Phone		
78 ZENNER ST Apt: 2		BUFFALO		NY	14211	(718) 544-2111				
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone	
6' 11"	209	BLK	BRO	M	DRK	None				
Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report
SORTINO	BRYCE		F	07/01/1994	White	M	26	N	N	PR
Address		City		State	Zip	Home Phone		Work Phone		
192 EDGEWOOD AV		TONAWANDA		NY		948-6454				
Height	Weight	Hair	Eyes	Build	Complexion	Glasses	Scars/Marks/Tattoos		Cell Phone	
6' 9"	200	BRO	GRY	M	FAR	None				
Victim DID receive information on Victim's Rights and Services pursuant to New York State Law Yes/No										
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Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report																																																											
BAKER	NATHANIEL			05/09/1986	Black	M	26	N	N	PR																																																											
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Last Name	First Name	MI	Ext	Birth Date	Race	Sex	Age	Juvenile	Arrested	Report																																																											
ROBERTSON	BRANDON	N		01/23/1986	Black	M	35	N	N	PR																																																											
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283 S HAMPTON ST		BUFFALO		NY		(716) 663-3103																																																															
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PL	146.00	M	A	4	CRIMINAL MISCHIEF - 4	1
PL	196.05	M	A	2	OBSTRUCT GOVERNMENTL ADMIN 2ND	1

Arrest #	Name	Date	Address				
82650	MARCHESE, RUBEN . 7/28/1984	06-17-2021	11581 WALDEN AV ALDEN TOWN				
Status	Arrest Type	Arresting Officers					
Held	Crime In Progress	313-MILBRANDT		D67-OHARA		D40-HANNA	D66-FERRICK
Law	Section	CA	CL	DG	Description	Counts	
PL	146.10	F	D	2	CRIMINAL MISCHIEF - 2ND	1	
PL	146.06-02	F	E	3	CRIMINAL MISCHIEF 3RD:DAMAGE ANOTHERS PROPERTY-AMOUNT>	1	
PL	146.00	M	A	4	CRIMINAL MISCHIEF - 4	1	
PL	196.05	M	A	2	OBSTRUCT GOVERNMENTL ADMIN 2ND	1	

Arrest #	Name	Date	Address				
82551	CLEVELAND, DARNELL R. 9/9/1996	06-17-2021	11581 WALDEN AV ALDEN TOWN				
Status	Arrest Type	Arresting Officers					
Held	Crime In Progress	313-MILBRANDT		D67-OHARA		D40-HANNA	D65-FERRICK
Law	Section	CA	CL	DG	Description		Counts
PL	146.10	F	D	2	CRIMINAL MISCHIEF - 2ND		1
PL	146.06-02	F	E	3	CRIMINAL MISCHIEF 3RD:DAMAGE ANOTHERS PROPERTY-AMOUNT>		1
PL	146.00	M	A	4	CRIMINAL MISCHIEF - 4		1
PL	196.05	M	A	2	OBSTRUCT GOVERNMENTL ADMIN 2ND		1

Arrest #	Name	Date	Address				
62652	SAUNDERS, SHAWN A.	11/21/1987	08-17-2021	11581 WALDEN AV ALDEN TOWN			
Status	Arrest Type	Arresting Officers					
Held	Crime In Progress	313-MILBRANDT		D67-OHARA	D40-HANNA	D66-FERRICK	
Law	Section	CA	CL	DG	Description		Counts
PL	196.05	M	A	2	OBSTRUCT GOVERNMENTL ADMIN 2ND		1

Arrest #	Name	Date	Address			
82553	JACOBY, AARON M. 1/13/2001	06-17-2021	11581 WALDEN AV ALDEN TOWN			
Status	Arrest Type	Arresting Officers				
Held	Crime In Progress	313-MILBRANDT	D57-OHARA	D40-HANNA	D65-FERRIOK	
Law	Section	CA	CL	DG	Description	Counts
PL	196.05	M	A	2	OBSTRUCT GOVERNMENTL ADMIN 2ND	1

Qty	Type	Description	Status	Make	Color	Model	Total Value	Report
1	Recordings--	CSI PHOTOS	05 - Recovered			UNIT D	\$1.00	SP
1	Recordings--	CSI PHOTOS	05 - Recovered			INJURIES	\$1.00	SP
1	Recordings--	OSCR PHOTOS	05 - Recovered				\$1.00	SP
1	Recordings--	INTERVIEWS	05 - Recovered				\$1.00	SP

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**Erie County Sheriff's Office
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**Complaint
21-034921**

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On 5/17/2021, at 1715 hrs 38 inmates housed in Delta housing unit at the Erie County Correctional Facility refused to comply with lawful orders to return to their cells and lock in. The inmates stated that they were unhappy with conditions inside the facility, primarily the lack of a microwave in the unit, and they would not lock in until a microwave was returned to the unit. At 1718 hrs Sgt Schein arrived at the Delta Housing Unit and again ordered the inmates to lock in, the inmates refused to comply. At 1730 hrs Sgt Schein requested additional units sent to Delta. At that time the inmates began to barricade themselves in the northern side of the housing unit with tables and chairs. At 1733 hrs LT Sundberg arrived on the unit and order the inmates to lock in, the inmates again refused to comply. LT Sundberg stated to the inmates that he could not provide a microwave at that time and if the inmates would lock in he would address their issues with the facility individually. The inmates refused and stated that they wanted to speak with someone with the authority to meet their demands. At 1810 hrs Chief Harris arrived on the unit and again advised that a microwave would not be provided and the inmates needed to lock in. The inmates again stated that they would not lock in until their demands were met. At that time several inmates in the unit began to escalate the situation with further threats of noncompliance and violence. LT Sundberg continued to attempt to deescalate the situation and address the inmates complaints. At 1830 hrs members of the Erie County Sheriff's Office SWAT team began to arrive and stage in the parking lot of the facility. At 1831 hrs LT Sundberg felt the situation became unsafe and removed all officers from the unit. Immediately after the officers left the unit inmates began to barricade the main entrance to the unit, arm themselves, lock all unoccupied cells and destroy property within the unit. At 1841 hrs Chief Evans arrived on the unit and attempted to speak with inmates through the unit door and inmates refused. Inmates then covered the windows with plastic bags to obstruct the officers view in to the unit, tied sheets to the door handle to prevent entry to the unit and continued to fortify their position. A short time later, several inmates using table legs and other blunt instruments broke in to the officers office on the unit and destroyed property within the office. Inmates continue to destroy property in the unit until 2131 hrs when inmates requested to lock in. At that time Sgt Schein starts individually unlocking cell doors so inmates can enter the cells and lock in. At 2250 hrs Sr Detective McCarthy, Detective Parisi, Detective Ferrick, Detective Hanna and Detective Milbrandt arrive at the facility and begin to interview Officer Manning, LT Sunderberg and the inmates housed in Delta. During that time Detective Kuhlmeier and Detective Richard arrived to photograph Delta housing unit.

Photographs, Digital recordings and notes taken during the interviews will be maintained in the case file.
Investigation Pending

On 5/19/2021 Sr Detective McCarthy and Detective Fuqua responded to the Erie County Correctional Facility to conduct interviews of Officers involved in the 5/17/2021 incident. The following is a synopsis of the interviews:

- Officer Priester stated while working in his official capacity at the Correctional facility, assigned as lunch relief for central control and the medical unit, he was called to the Delta housing unit for assistance.
- When he arrived the inmates were barricaded on the north side of the unit and refused to lock in.
- Approximately 10-12 officers responded to Delta.
- LT Sundberg addressed the inmates.
- Inmates Saunders, Cleveland, Marchese and Cruz were the most outspoken during the incident.
- Observed Marchese was pacing back and forth.
- Observed Cruz was warming up like a boxer.
- Inmate Lomaack was the voice of reason for the inmates and stated to the group nobody needs to get hurt and not all the officers were bad.

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- LT Sundberg continued to attempt to talk the inmates down for over an hour with negative results.
- Chief Harris attempted to talk the inmates down with negative results.
- All officers were ordered off the block.
- As Officer Priester exited the block he observed inmate Miszko stacking tables in front of the sallyport door.
- Observed inmate Marchese armed with a wooden table leg.
- Approximately four hours later the cert team was assembled and orders were again given to the inmates to lock in prior to entry.
- Inmates complied.

- Officer Walker stated while working in his official capacity at the Correctional facility, assigned as Escort 1, he was called to the Delta housing unit for assistance.
- When he arrived he observed 35-40 inmates barricaded on the North side of the housing unit who refused to lock in.
- LT Sundberg addressed the inmates.
- Observed Marchese was pacing back and forth with a towel on his head.
- Inmate Saunders was very vocal and made threats toward staff.
- Inmate Lowmack appeared to be the voice of reason, spoke to other inmates and asked them to lock in.
- LT Sundberg ordered all inmates off the unit.
- Observed inmates Marchese and Luper flip officers desk against sallyport door.
- Observed inmate Getman throw an orange at the window, bring sheets to tie the sallyport door closed and holding a fire extinguisher.
- Observed Marchese armed with two table legs.
- At 2130 hrs a plan to reenter the unit from the upper tier was formulated.
- Prior to entry in to the unit orders to lock in were again given.
- Inmates comply.

On 5/20/2021 Sr Detective McCarthy and Detective Fuqua responded to the Erie County Correctional Facility to conduct interviews of Officer Caraballo, inmate Keith Leggett and inmate Davon Cotton who were involved in the 5/17/2021 incident. The following is a synopsis of the interviews:

- Sgt Caraballo stated while working in her official capacity at the Correctional facility, assigned as Supervisor for Echo, Fox and Hotel housing units, she was called to the Delta housing unit at 1733hrs for assistance.
- When she arrived on the unit inmates were barricaded on the north side of the unit.
- LT Sundberg addressed the inmates.
- Inmate Saunders voiced the inmates grievances.
- Inmates Saunders, Marchese, Cruz and Cleveland were the main agitators.
- Chief Harris arrived and addressed the inmates, inmates refused to lock in.
- LT Sundberg ordered all officers off the unit.
- Inmates immediately began to destroy property.
- LT Sundberg ordered Sgt Caraballo to do a head count.
- Returned to the unit and observed inmate Jacoby spraying liquid detergent on the windows and sticking papers to the windows to obstruct the officers view in to the unit.
- Observed inmate Marchese with an eye injury that was not previously observed.
- At 2130 hrs Sgt Caraballo attempted to open the 2nd floor door from Charlie housing unit in to Delta and was sprayed with a fire extinguisher by an unknown inmate.
- Inmates were ordered to lock in prior to making entry in to the unit.



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-Inmates comply.

Inmate Kelth Leggett declined to be interviewed regarding the incident and injuries he sustained.

- Inmate Davon Cottom stated that in the area of cell 209 on the second floor of the unit he observed Inmate Leggett trying to calm down Inmate Marchese during the incident.
- Observed Marchese punch Leggett in the face then put Leggett in a headlock and choke hold as Marchese took Leggett to the ground.
- Observed Inmate Mieszko attempt to strike Leggett in the head with a table leg.
- Blocked Mieszko from striking Leggett twice.
- Punched Mieszko in the face to prevent Mieszko from assaulting Leggett.

On 5/25/2021 Sr Detective McCarthy, Detective O'Hara and Detective Fuqua responded to the Erie County Correctional Facility to conduct interviews of Officers involved in the 5/17/2021 incident. The following is a synopsis of the interviews:

-Sgt Schein stated while working in his official capacity at the Correctional facility, assigned Zone Sgt of Charlie and Delta housing units, he was called by Officer Manning to the Delta housing unit for assistance because the inmates refused to lock in.

-When he arrived on the unit he observed 38 inmates barricaded on the north side of the unit on both the lower and upper tier.

-At 1733 ordered mandatory lock in and inmates again refused.

-Ordered additional officers to Delta.

-LT Sundberg arrived and ordered inmates to lock in, inmates refused.

-Chief Harris arrived and ordered inmates to lock in, inmates refused.

-1837 hrs officers back out of Delta.

-Observed Inmate Jacoby, Saunders and Cleveland barricade sallyport door.

-Observed Inmate Marchese break apart the microwave stand and arm himself with a table leg.

-Left unit for front office staff brief.

-Returned to the unit and ordered inmates to lock in using area page.

-Inmates comply.

-Sgt Dorsey stated while working in his official capacity at the Correctional facility, assigned to Operations, he was called by to the Delta housing unit for assistance.

-Responded to unit with body cam.

-Observed inmates barricaded on the north side of the unit.

-Inmates refused to lock in.

-LT Sundberg addressed the inmates.

-Chief Harris arrived on the unit and ordered inmates to lock in, inmates refused.

-Officers were ordered off the unit.

-Observed unknown inmates barricade the sallyport door.

-Observed unknown inmates cover windows.

-Ordered to library for update on situation.

-Ordered back to Delta with body cam.

-Observed unknown inmates arm themselves with table legs.

-Observed unknown inmate spraying the fire extinguisher.

-Ordered of unit to reallocate personnel.



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- Officer Stachura stated while working in his official capacity at the Correctional facility, assigned as Escort 3, he was called to the Delta housing unit for assistance.
- When he arrived he observed 35-40 inmates barricaded in the north side of the unit.
- Inmates refused orders to lock in.
- Most of the inmates had their shirts off and covered their faces with them.
- LT Sundberg ordered all officers off the unit. *violation of equal protection*
- Observed inmate Jacoby barricade the sallyport door and attempt to break in to the slop sink room.
- Ordered to Library to assemble with CERT team.
- Cert team staged at the 2nd floor entry door in to Delta from Charlie.
- While staged an unknown inmate sprayed the fire extinguisher at officers.
- Inmates complied with lock in orders.
- Made entry in to unit.

- Officer Priore stated while working in her official capacity at the Correctional facility, assigned as Library Officer, at 1733 hrs she was called to the Delta housing unit for assistance.
- responded to four corners staging location.
- 45 min later Sgt King ordered officers in to CERT gear.
- Ordered to Library staging area.
- Ordered to the roof to observe the unit through the skylight.
- Observed unit destroyed, inmates eating food and drinking coffee.
- Observed inmate Jacoby spray fire extinguisher in to 2nd floor sallyport door leading in to Charlie.
- Inmates ordered to lock in.
- Inmates comply.

- Officer Lichterfeld stated while working in his official capacity at the Correctional facility, assigned to the Four Corners post, he was called to the Delta housing unit for assistance.
- When he arrived Sgt Scheln and Officer Manning were addressing the inmates who refused to lock in.
- The inmates were barricaded in the north side of the unit and were chanting "microwave, microwave"
- LT Sundberg arrived and addressed the inmates.
- Inmate Saunders was acting as the spokes person for the inmates, they wanted their grievances addressed.
- LT Sundberg continued talking to the inmates for the next hour.
- Chief Harris arrived and ordered inmates to lock in with negative results.
- All officers were ordered off the unit.
- Observed unknown inmates barricade the sallyport door.
- Ordered to the library.
- Ordered to the roof to observe the unit through the skylight.
- Observed inmate Jacoby spray the fire extinguisher at officers when the attempted to breach the barricade on the 2nd floor entry door from Charlie.
- Observed inmate Lawrence attempting to reinforce the 2nd floor barricade with a wooden stick.
- Inmates ordered to lock in prior to entry.
- Inmates complied.

- Sgt King stated while working in his official capacity at the Correctional facility, assigned as Alpha and Bravo Unit Zone Sgt, he was called to the Delta housing unit for assistance.
- When he arrived he observed inmates barricaded on the north side of the unit.
- Almost all inmates had their faces covered.
- LT Sundberg arrived and ordered inmates to lock in, inmates refused.
- Inmate Saunders appeared to be one of the leaders.

Printed Date: 06/22/2021 07:46 AM

Page: 11



**Erie County Sheriff's Office
POLICE REPORT
INFORMATION: INVESTIGATION**

Complaint
21-034921

Report Date & Time
06/17/2021 19:21

- Inmate Cruz was doing push ups and warming up.
- Inmates Braxton and Lawrence were walking around talking to other inmates.
- Left unit to assemble Quick Entry Team.
- Staged team 2nd floor door between Charlie and Delta.
- Opened the door to Delta to determine how it had been barricaded and was sprayed with a fire extinguisher by an unknown inmate.
- Waited for order to enter unit.

- Sgt Aldrich stated while working in his official capacity at the Correctional facility, while in Operations, he was called to the Delta housing unit for assistance.
- When he arrived on the unit he observed inmates barricaded on the north side of the unit.
- LT Sundberg was addressing the inmates.
- LT Sundberg ordered all officers off the unit.
- Later was ordered back to Delta with body cam
- Could not identify any inmates throughout the incident.

On 5/28/2021 Sr Detective McCarthy, Detective O'Hara and Detective Milbrandt responded to the Erie County Correctional Facility to conduct an interview of inmate Claymond Tyus involved in the 5/17/2021 incident. The following is a synopsis of the interview:

- Housed in Delta, approximately 5:30 pm inmates refused to lock in.
- Shawn Saunders and David Braxton were the leaders, spoke to officers.
- Inmates Josean Cruz and Ruben Marchese were pacing in front of officers and instigating the situation.
- Inmates Saunders, Braxton, William Smith, Darnell Cleveland, and David Miszko barricaded the sallyport door.
- Inmates Aaron Jacoby and Cleveland wet bed sheets and tied the sallyport door closed.
- Inmates Miszko, Marchese and Cleveland barricaded 2nd floor sallyport door.
- Inmate William Smith broke the shower window and the wifi router.
- Inmate Marchese and others broke the microwave stand and then armed themselves with pieces of the stand.
- Inmate Miszko broke a the window and door to the officers room with a table leg.
- Inmate Leggett attempted to stop Miszko from breaking in to the officers room and Miszko struck Leggett in the head with the table leg.
- Tyus blocked Miszko from striking Leggett again, then helped Leggett in to his cell and was assisted by inmate Cotton.
- Inmates Miszko, Cleveland and Getman broke in to officers room.
- Inmates Miszko, Cleveland and Getman took the officers purse and personal property.
- Inmates Miszko and Cleveland urinated on the floor in the officers room.
- Inmate Jacoby sprayed the fire extinguisher at the sallyport door and throughout the unit.
- Inmate Cleveland took the microwave out of the officers room and brought it out in to the unit.
- Multiple inmates used the microwave to make meals and coffee.
- After the microwave was used the unit was calm.
- Approximately an hour later inmates are again ordered to lock in.
- Inmates comply.

Original copies of all statements and notes will be maintained in the case file.

Officer: 313 - MILBRANDT

Supervisor: CAPT8 - WELCH

Printed Date: 06/22/2021 07:48 AM

Page: 12

Mr. Blake as you can see, I'm never mentioned in these reports, you only see my name from parole, and I'm not on parole, yet they displayed my family's and my personal information for everyone to see without mine or my family's consent putting all of us in danger. The ten or so guys that was charged and sent downtown, were treated differently than us, we got 90 days ad-seq, \$25.00 restitution, no visits and no commissary, they got 90 days over their heads and no restitution, no lock downs, and they ordered commissary, and all of them got outside charges, how can that happen?

EXHIBIT

B

DISCIPLINARY REPORT

Inmate Name Kevin Barber	ICN # 11444	H.U. # G-112	Date / Time of Report 5/19/21 13:52
Location of Offense Delta common area	Date/Time of Offense 5/17/21 17:33	Incident # CF-21-291	Reporting Officer Sgt P. Schein

CHARGE #	OFFENSE	CLASS
105-A	Destruction of county property : Valued over \$500	A
107-A	Disrupting facility operations : Blocking, damaging, picking or tampering with security device	A
107-B	Disrupting facility operations : Damaging or tampering with any electrical outlet, fixture or appliance	B
111-A	Rioting : Engaging in violent disorder with other inmates	A
103-A	Conspiracy : Conspiracy to commit a felony or a class A disciplinary violation	A

NARRATIVE

On 5/17/2021 at 17:33 hours inmate refused my order to lock in. At 17:30 the facility is under a mandatory lock down. This was part of a planned group action. After the inmate refused to lock in, he Took part in a riot that resulted in injury to at least two inmates and caused extensive damage to the housing area including but not limited to: security door to the officer's room, door to the slop sink, telephone and paging equipment, area T.V., Wifi equipment, officer's desk, safety mirror and various other county property. Inmate also took part in building barricades and used bed sheet to tie doors shut to prevent from entering the area. This was all done in collusion with other inmates on the housing area

I didn't Take Part in any of these crimes, and they can't and can't show me, or prove I did, they just took my money and threw me in the box for ninety days, they also gave and charged about ten other inmates with Felony's, but they didn't charge me, so how can they convict me, when they charged other people, and even though I didn't get outside charges, how can they punish me for charges that they already have the guilty people for.

Under penalty of perjury, I attest that the above statements are true to the best of my knowledge and belief:

[Signature]
Signature of reporting Officer

S-27

Badge #

Date

5/19/21

Inmate's Receipt

I have been advised of, and provided with a written copy of, the disciplinary charges filed against me.

Inmate's Signature

Date / Time

5-19-21 2059

☒ Inmate refused to sign receipt.

Signature of Employee

Badge #

S-24

Waiver

I understand that I am entitled to a minimum of 24 hours to prepare a defense, prior to any disciplinary proceeding. I voluntarily waive that right and request that my hearing be held at the next scheduled meeting of the Disciplinary Committee.

Inmate's Signature

Date

5-19-21

Employee's Signature

Badge #

S-24

SUPERVISOR'S REVIEW

This report meets the standards for disciplinary reports as established by the Jail Management Division of the Erie County Sheriff's Office.

☒ Forward to the Disciplinary Committee

☐ File

Signature of Reviewing Supervisor

Date

5/19/21

NOTIFICATION OF INMATE'S RIGHTS

- You will be given an opportunity to be heard in your own behalf.
- You will be provided with a minimum of 24 hours in which you may prepare a defense and present it to the Disciplinary Committee. You may submit a written statement, which will be maintained as part of the record. You may request that witnesses be called to testify, or to submit written statements on your behalf.
- You will receive written notice of the decision of the Disciplinary Committee.
- You may appeal the decision of the Disciplinary Committee, in writing within two (2) business days, to the Superintendent or designee.
- If any good time is revoked, on or about ten (10) days prior to your minimum outdate, you may apply to the Disciplinary Committee for restoration of lost good time.

Erie County Sheriff's Office

ADMINISTRATIVE/DISCIPLINARY SEGREGATION REVIEW

Inmate name	Kevin Barber		Date	5/26/21
ICN#	11444			
Under 18	<input type="checkbox"/>	Pregnant	<input type="checkbox"/>	Hearing officer
Physical disability	<input type="checkbox"/>	Mental disability	<input checked="" type="checkbox"/>	Chief Harris
		Serious mental illness	<input type="checkbox"/>	Hearing officer
				Captain Priester

On this date, an Administrative Hearing was conducted regarding the security status of the above named inmate. Based upon available information, the following decision has been made:

- ☒ You have been classified as a **SECURITY RISK**
☐ Your Administrative Segregation has been **RESCINDED**

Based upon your security status, the following administrative restrictions shall apply to you:

Housing	You will be housed in <u>G-112</u> under the following conditions:
	<input type="checkbox"/> You may co-mingle with other inmates
	<input checked="" type="checkbox"/> You may not co-mingle with other inmates and will receive time out of your cell alone
	<input checked="" type="checkbox"/> You will receive one hour out of your cell plus 15 minutes to shower
Movement	<input type="checkbox"/> Same as general population <input checked="" type="checkbox"/> Officer escort <input type="checkbox"/> Officer & supervisor escort <input checked="" type="checkbox"/> Restrained with handcuffs whenever transported within the facility <input type="checkbox"/> Restrained with handcuffs and shackles whenever transported within the facility
Recreation	<input checked="" type="checkbox"/> You will attend recreation with your housing area <input type="checkbox"/> You will receive two hours of recreation <input type="checkbox"/> You will attend alternative recreation <input type="checkbox"/> You will attend alternative recreation ALONE <input type="checkbox"/> Restraints to remain in place during recreation
Visitation	<input type="checkbox"/> Contact visitation <input checked="" type="checkbox"/> Non-contact visitation <input type="checkbox"/> Non-contact visitation ALONE <input type="checkbox"/> Restraints to remain in place during visitation
Religious services	<input type="checkbox"/> You may attend congregate worship services with the general population <input checked="" type="checkbox"/> You may not attend congregate worship services with the general population. Instead, you may request ministerial visits in writing to the chaplain of your faith and individual religious services will be provided
Library	<input type="checkbox"/> You may attend the library and law library with the general population <input checked="" type="checkbox"/> You may not attend the library with the general population <input type="checkbox"/> You may not attend the law library. You may submit a written request for an appointment to attend the law library alone <input checked="" type="checkbox"/> You may not attend the law library. You may submit written requests for specific legal materials and every reason effort will be made to provide them to you at your housing unit

Erie County Sheriff's Office
Jail Management Division

Disciplinary Appeal Form

Inmate's Name	ICN #	Current H.U. #
KEVIN Barber	# 11444	B-1-106
Date of Hearing	Hearing Officer	Date of Appeal
6/7/21		6/7/21

I respectfully request an appeal of the decision of the Disciplinary Hearing Officer for the following Reason:

- ☐ Improper procedure was followed.
☐ New evidence suggesting that the decision was incorrect.

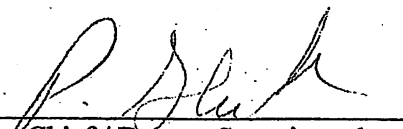
Explain: I didn't lock in because somebody closed my door so I locked in with 205 JACKSON
 On 6/7/21 I was automatically found guilty of crimes I never took part in, contrary to popular belief we tried to help D-Dorm in many ways (will explain at hearing), I'm sixty years old and I've been in this facility since 2/25/2020 and I've never had any disciplinary problems no tickets or nothing, being that we been found guilty is an injustice. I was never told I could have witnesses

Upon review of the Disciplinary Hearing Record in this case, the following determination has been made:

☐ **Appeal Granted** Your Disciplinary Sanction is amended as follows: _____

☐ **Appeal Granted** You will be scheduled to appear before another Disciplinary Hearing Officer for a new hearing. You have twenty-four (24) hours to prepare a defense. Your hearing will be held on _____

☒ **Appeal Denied** Reason: AFTER A THOROUGH REVIEW OF ALL STATEMENTS, REPORTS
RECORDS, YOUR CLAIM IS UNSUPPORTED, THE RULING STANDS


 Chief / Deputy Superintendent

6-11-21
 Date

ERIE COUNTY HOLDING CENTER
DISCIPLINARY HEARING RECORD

Inmate Name	ICN#	Housing Unit / #	Date of Report
<u>BARBER KEVIN</u>	<u>114461</u>	<u>6-112</u>	<u>5/19/21</u>
Location of Offense	Date / Time of Offense	Incident #	Reporting Officer
<u>DELTA</u>	<u>5/17/21 1733</u>	<u>CF-2-291</u>	<u>SCHIN</u>

<input checked="" type="checkbox"/> Defendant Present at Hearing <input type="checkbox"/> Defendant Refused to Attend X _____ (Inmate's Signature)	Charges	Class	Inmate's Plea		Findings	
	<u>105-A</u>	<u>A</u>	<u>G</u>	<u>NG</u>	<u>G</u>	<u>NG</u>
	<u>107-A</u>	<u>A</u>	<u>G</u>	<u>NG</u>	<u>G</u>	<u>NG</u>
	<u>107-B</u>	<u>B</u>	<u>G</u>	<u>NG</u>	<u>G</u>	<u>NG</u>
	<u>111-A</u>	<u>A</u>	<u>G</u>	<u>NG</u>	<u>G</u>	<u>NG</u>
	<u>103-A</u>	<u>SA</u>	<u>G</u>	<u>NG</u>	<u>G</u>	<u>NG</u>
NOTES			<u>G</u>	<u>NG</u>	<u>G</u>	<u>NG</u>
			<u>G</u>	<u>NG</u>	<u>G</u>	<u>NG</u>
			<u>G</u>	<u>NG</u>	<u>G</u>	<u>NG</u>

INMATE'S STATEMENT:

I HAVE NEVER BEEN IN ANY PROBLEMS
IN THIS FACILITY. I LOCATED IN DELTA
COYS ROOM.

TS 07 103 DAYS K20D + N. V. 1000 VISITS

The finding of INNOCENCE / GUILT is based upon the following credible evidence presented at the hearing:	SANCTIONS IMPOSED:
<input checked="" type="checkbox"/> Officer's direct observations. <input type="checkbox"/> Inmate's statement(s). <input checked="" type="checkbox"/> Review of INCIDENT REPORT J-28. <input type="checkbox"/> Review of physical evidence. <input checked="" type="checkbox"/> Witness statement(s). <input checked="" type="checkbox"/> Other <u>INVOLVEMENT</u>	<input type="checkbox"/> Time Served <input type="checkbox"/> Verbal Reprimand <input type="checkbox"/> Abeyance: _____ days; _____ days KLNP if violated <input checked="" type="checkbox"/> Restitution: \$ <u>500.00</u> payable from existing/future funds <input type="checkbox"/> Loss of privilege(s): <u>10 days</u> for _____ days <input type="checkbox"/> Disciplinary Segregation: _____ days <input checked="" type="checkbox"/> Recommend Admin. Action: <u>\$25 SUMMER</u>
Sanctions to run for a period of <u>30</u> days, from <u>5/17/21</u> to <u>6/16/21</u> <u>APR</u> You will be returned to general population on <u>6/16/21</u> at 6:30 p.m.	

DISCIPLINARY COMMITTEE	DAY: <u>Monday</u>	DATE: <u>5/19/21</u>	TIME: <u>0939</u>
<u>S. 1013</u>	<u>1013</u>	<u>1013</u>	<u>1013</u>
Disciplinary Committee Signature	Disciplinary Committee Signature	Disciplinary Committee Signature	Disciplinary Committee Signature

Erie County Sheriff's Office
ADMINISTRATIVE/DISCIPLINARY SEGREGATION REVIEW

Inmate name Kevin BarberDate 5/26/21ICN# 11444Under 18 ☐Pregnant ☐Hearing officer Chief HarrisPhysical disability ☐Mental disability ☐Hearing officer Captain PriesterSerious mental illness ☐Hearing officer Continue restrictions? Yes ☒ No ☐

Why? _____

Signature

Chief HarrisHearing officer Continue restrictions? Yes ☐ No ☐

Why? _____

Signature

CAPT P. Priester

Mental health

Does continuing confinement
significantly compromise health? Yes ☒ No ☐Why? Due to increase in MHsymptoms & recent increase in MH meds (dose), requesting full FWH time out.

Signature

Danielle Williams, LCSW

Medical

Does continuing confinement
significantly compromise health? Yes ☐ No ☐

Why? _____

Signature

Inmate

Date

Note

Date

Note

5/17 Inmate was involved in a riot on Delta

ERIE COUNTY SHERIFF'S OFFICE • JAIL MANAGEMENT DIVISION

DISCIPLINARY REPORT

Inmate Name Kevin Barber		ICN # 11444	H.U. # G-112	Date / Time of Report 5/19/21 13:52	
Location of Offense Delta common area		Date/Time of Offense 5/17/21 17:33	Incident # CF-21-291	Reporting Officer Sgt P. Schein	
CHARGE #	OFFENSE				CLASS
105-A	Destruction of county property : Valued over \$500				A
107-A	Disrupting facility operations : Blocking, damaging, picking or tampering with security device				A
107-B	Disrupting facility operations : Damaging or tampering with any electrical outlet, fixture or appliance				B
111-A	Rioting : Engaging in violent disorder with other inmates				A
103-A	Conspiracy : Conspiracy to commit a felony or a class A disciplinary violation				A
NARRATIVE					
On 5/17/2021 at 17:33 hours inmate refused my order to lock in. At 17:30 the facility is under a mandatory lock down. This was part of a planned group action. After the inmate refused to lock in, he Took part in a riot that resulted in injury to at least two inmates and caused extensive damage to the housing area including but not limited to: security door to the officer's room, door to the slop sink, telephone and paging equipment, area T.V., Wifi equipment, officer's desk, safety mirror and various other county property. Inmate also took part in building barricades and used bed sheet to tie doors shut to prevent from entering the area. This was all done in collusion with other inmates on the housing area					
<p><i>I didn't Take Part in any of these crimes, and they can't and can't show me, or prove I did, they just took my money and threw me in the box for ninety days, they also gave and charged about 100 other inmates with Felonies, but they didn't charge me, so how can they convict me, when they charged other people, and even though I didn't get outside charges, how can they punish me for charges that they already have the guilty people for.</i></p>					
Under penalty of perjury, I attest that the above statements are true to the best of my knowledge and belief:			<p><i>[Signature]</i> Signature of reporting Officer Schein Badge # S-27 Date 5/19/21</p>		
Inmate's Receipt			Waiver		
I have been advised of, and provided with a written copy of, the disciplinary charges filed against me.			I understand that I am entitled to a minimum of 24 hours to prepare a defense, prior to any disciplinary proceeding. I voluntarily waive that right and request that my hearing be held at the next scheduled meeting of the Disciplinary Committee.		
<p>Inmate's Signature S-19-21 2059 Date / Time</p> <p><input checked="" type="checkbox"/> Inmate refused to sign receipt. S-19-21 2059 Signature of Employee S-24 Badge #</p>			<p>Inmate's Signature S-19-21 Date</p> <p>S-24 Employee's Signature S-24 Badge #</p>		
SUPERVISOR'S REVIEW					
This report meets the standards for disciplinary reports as established by the Jail Management Division of the Erie County Sheriff's Office.					
<p><input checked="" type="checkbox"/> Forward to the Disciplinary Committee S-19-21 2059 S-24 5/19/21 Signature of Reviewing Supervisor Date</p> <p><input type="checkbox"/> File</p>					
NOTIFICATION OF INMATE'S RIGHTS					
<p>You will be given an opportunity to be heard in your own behalf.</p> <p>You will be provided with a minimum of 24 hours in which you may prepare a defense and present it to the Disciplinary Committee. You may submit a written statement, which will be maintained as part of the record. You may request that witnesses be called to testify, or to submit written statements on your behalf.</p> <p>You will receive written notice of the decision of the Disciplinary Committee.</p> <p>You may appeal the decision of the Disciplinary Committee, in writing within two (2) business days, to the Superintendent or designee.</p> <p>If any good time is revoked, on or about ten (10) days prior to your minimum outdate, you may apply to the Disciplinary Committee for restoration of lost good time.</p>					

Erie County Sheriff's Office
Jail Management Division

Disciplinary Appeal Form

Inmate's Name	ICN #	Current H.U. #
KEVIN Barber	# 11444	B-1-106
Date of Hearing	Hearing Officer	Date of Appeal
6/7/21		6/7/21

I respectfully request an appeal of the decision of the Disciplinary Hearing Officer for the following Reason:

- ☐ Improper procedure was followed.
☐ New evidence suggesting that the decision was incorrect.

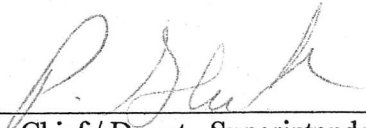
Explain: I didn't lock in because somebody closed my door so I locked in with 205 JACKSON ON 6/7/21 I WAS AUTOMATICALLY FOUND GUILTY OF CRIMES I NEVER TOOK PART IN, CONTRARY TO POPULAR BELIEF IVE TRIED TO HELP D-DORM IN MANY WAYS (WILL EXPLAIN AT HEARING). IM SIXTY YEARS OLD AND IVE BEEN IN THIS FACILITY SINCE 2/25/2020 AND IVE NEVER HAD ANY DISCIPLINARY PROBLEMS NO TICKETS OR NOTHING, BEING THAT WE BEEN FOUND GUILTY IS AN INJUSTICE. I WAS NEVER TOLD I COULD HAVE WITNESSES

Upon review of the Disciplinary Hearing Record in this case, the following determination has been made:

☐ **Appeal Granted** Your Disciplinary Sanction is amended as follows: _____

☐ **Appeal Granted** You will be scheduled to appear before another Disciplinary Hearing Officer for a new hearing. You have twenty-four (24) hours to prepare a defense. Your hearing will be held on _____

☒ **Appeal Denied** Reason: AFTER A THOROUGH REVIEW OF ALL STATEMENTS, REPORTS RECORDS, YOUR CLAIM IS UNSUPPORTED, THE RULING STANDS



Chief / Deputy Superintendent

6-11-21

Date

ERIE COUNTY HOLDING CENTER

DISCIPLINARY HEARING RECORD

Inmate Name	ICN#	Housing Unit / #	Date of Report
HAJBER KEVIN	114441	W-6-112	5/19/21
Location of Offense	Date / Time of Offense	Incident #	Reporting Officer
DELTA	5/17/21 1733	CF-2-281	SCHEIN

[X] Defendant Present at Hearing [] Defendant Refused to Attend X _____ (Inmate's Signature)	Charges	Class	Inmate's Plea		Findings	
	105-A	A	G	NG	G	NG
	107-A	A	G	NG	G	NG
	107-B	B	G	NG	G	NG
	111-A	A	G	NG	G	NG
	103-A	A	G	NG	G	NG
			G	NG	G	NG
			G	NG	G	NG

INMATE'S STATEMENT:

I have never been in any problems in this facility. I locked in mother's room.

TS 27 168 DAYS KLPD + NO VIDEO VISITS

The finding of INNOCENCE / GUILT is based upon the following credible evidence presented at the hearing:	SANCTIONS IMPOSED:
<input checked="" type="checkbox"/> Officer's direct observations. <input checked="" type="checkbox"/> Inmate's statement(s). <input checked="" type="checkbox"/> Review of INCIDENT REPORT J-28. <input checked="" type="checkbox"/> Review of physical evidence. <input checked="" type="checkbox"/> Witness statement(s). <input checked="" type="checkbox"/> Other <u>Investigation</u>	<input type="checkbox"/> Time Served <input type="checkbox"/> Verbal Reprimand <input type="checkbox"/> Abeyance: _____ days; _____ days KLPD if violated <input checked="" type="checkbox"/> Restitution: \$ <u>5000</u> payable from existing/future funds <input type="checkbox"/> Loss of privilege(s): <u>15/17</u> for <u>5</u> days <input type="checkbox"/> Disciplinary Segregation: _____ days <input type="checkbox"/> Recommend Admin. Action: <u>605 SCORING</u>
Sanctions to run for a period of <u>30</u> days, from <u>5-17-21</u> to <u>8-16-21</u> . You will be returned to general population on <u>8-16-21</u> at 6:30 p.m.	

DISCIPLINARY COMMITTEE	DAY: <u>Monday</u>	DATE: <u>2/3/21</u>	TIME: <u>10:30</u>
<u>Sgt. S. S. S.</u> Disciplinary Committee Signature	<u>[Signature]</u> Disciplinary Committee Signature	<u>[Signature]</u> Disciplinary Committee Signature	<u>[Signature]</u> Disciplinary Committee Signature

Erie County Sheriff's Office
Jail Management Division

106

Disciplinary Appeal Form

Inmate's Name	ICN #	Current H.U. #
Kevin [unclear]	11444	131-100
Date of Hearing	Hearing Officer	Date of Appeal
4/7/21	Colanucki	4/11/21

I respectfully request an appeal of the decision of the Disciplinary Hearing Officer for the following Reason:

- ☐ Improper procedure was followed.
☐ New evidence suggesting that the decision was incorrect.

Explain:

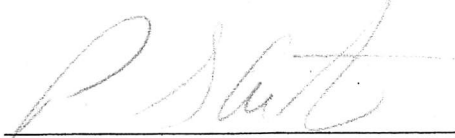
There is no way after state records, reports, and records, that you could find me guilty of anything but keep in mind that I'm guilty of anything it's being housed in delta, and I didn't put me there. I've never seen and injustice of a caliber all grievances have no merit, and all appeals are denied, I've lost my family, lost my money, and you can't take my integrity.

Upon review of the Disciplinary Hearing Record in this case, the following determination has been made:

☐ **Appeal Granted** Your Disciplinary Sanction is amended as follows: _____

☐ **Appeal Granted** You will be scheduled to appear before another Disciplinary Hearing Officer for a new hearing. You have twenty-four (24) hours to prepare a defense. Your hearing will be held on _____

☒ **Appeal Denied** Reason: ALL PROCEDURES WERE PROPERLY FOLLOWED
YOUR CLAIMS ARE UNSUPPORTED THE RULING STANDS


Chief / Deputy Superintendent

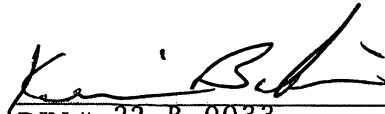
6/12/21
Date

AFFIDAVIT OF SERVICE

State of New York)
County of Livingston) ss.:


Kevin Barber, being duly sworn, deposes and says:
That on the 13 day of November, 20 22, I served a true copy of the
within: Amended copy of Section §1983 civil lawsuit.,
by depositing the same, endorsed in a postpaid properly addressed envelope, in the
official depository in Groveland Correctional Facility under the exclusive care and
custody of the New York State Department of Corrections and Community Supervision
Services, addressed and sent to the following individuals at the addresses designated by
them:

1.) United States District Court
200 U.S. Courthouse
2 Niagara Sq.
Buffalo, New York 14202-3498


DIN # 22-B-0033
Groveland Correctional Facility
PO Box 50
Sonyea, NY 14556

SWORN BEFORE ME THIS 13

DAY OF November, 20 22


NOTARY PUBLIC

Livingston County, New York STAMP:[

]

VERIFICATION

STATE OF NEW YORK
COUNTY OF LIVINGSTON

}
} ss.:

I, Kevin Barber, being duly sworn deposes
[Petitioner/Relator name printed]
and says:

That I am the Petitioner/Relator to the proceeding within, and that I have read
the forgoing documents:

Amendment for Section USC §1983 Civil Lawsuit.

and supporting papers, and know the contents thereof, that the same is true to
the best of my own knowledge, except as to matters therein stated upon
information and belief, which matters I believe to be true.

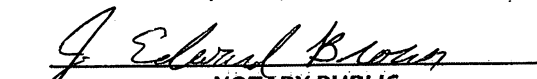


Petitioner/Relator
/Kevin Barber

22B0033
DIN Number

Sworn to before me this

13 day of November, 2022



NOTARY PUBLIC
LIVINGSTON COUNTY, NEW YORK --STAMP:[

J. EDWARD BROWN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01BR6324801
Qualified in Erie County
My Commission Expires 05-11-2023

]

Kevin Barber 22B0033 K-1 30
Groveland Correctional Facility
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21-cv-960



United States District Court
200 U.S. Courthouse
2 Niagara Sq.
Buffalo, New York 14202-3498

RE: 21 CV-960

REGAL MAIL

